

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

**ELISSA SHETZER, SHANA BETTS,
ERIC MARTIN, JASON COPE and
ANGELA GUFFEY, Each Individually and on
Behalf of All Others Similarly Situated**

PLAINTIFFS

vs.

Case No. 5:15-cv-112-RWS

HARTE-HANKS RESPONSE MANAGEMENT/AUSTIN LP

DEFENDANT

DECLARATION OF JOSH SANFORD

My name is Josh Sanford, and I am over the age of 18 and duly qualified to execute this Declaration and to swear to the accuracy of the facts herein contained.

QUALIFICATIONS OF COUNSEL

A. Attorney Josh Sanford

1. I am an attorney licensed in the State of Texas. I practice law with the law firm of Sanford Law Firm, PLLC, in Little Rock, Pulaski County, Arkansas; I have been practicing law since 2001.

2. I practice law full-time, and I manage the other thirteen attorneys in the law firm.

3. In the course of my law practice, I engage in a significant amount of wage and hour litigation—specifically cases arising under the Fair Labor Standards Act and the Arkansas Minimum Wage Act. A significant portion of my case load is in various federal courts around the United States, including trial work in cases arising under Title

VII of the Civil Rights Act of 1964, the Equal Pay Act, the Fair Labor Standards Act, and the Fair Debt Collection Practices Act.

4. I am licensed to practice law in all state and federal courts in the States of Arkansas, Colorado and Texas. I am also actively engaged in appellate practice. I have handled cases before almost all county Circuit Courts in the Central and River Valley regions of Arkansas, the United States District Courts for the Eastern and Western Districts of Arkansas, the United States District Courts for the Eastern, Southern, Northern and Western Districts of Texas, United State District Court for the Northern District of Oklahoma, United States District Court for the Southern District of Ohio, the United States District Court for the District of Colorado, the United States District Court for the Eastern District of Michigan, the United States District Court for the District of Oregon, the Eighth Circuit Court of Appeals and the Sixth Circuit Court of Appeals.

5. Within the last year, I have also filed cases in the Central and Northern Districts of California and the Northern District of Ohio.

6. In 2005, I was voted "Best Attorney" (tie) in a readers' poll published by *The Courier* in Russellville, Arkansas. Subsequently, in 2008, I served as the President of the Pope County Bar Association. In addition, I am a member of the American, Arkansas, and Pope County Bar Associations, the Arkansas Trial Lawyers Association and the National Employment Lawyers Association.

7. I am familiar with the customary and reasonable fees charged by myself and by other attorneys in the Eastern District of Texas. Generally, the customary and reasonable fee charged for federal court work in U.S. District Courts in Texas is \$225.00 to \$500.00 per hour (and higher), depending upon experience and specialty.

8. The hourly rates charged by the attorneys of the Sanford Law Firm, PLLC, of \$225.00 per hour for Attorney Rebecca Matlock, \$300.00 per hour for Attorney Steve Rauls, \$350.00 per hour for Attorney Vanessa Kinney, and \$500.00 per hour for Attorney Josh Sanford are typical of or less than the rates charged by other attorneys in the Eastern District of Texas who have similar qualifications, experience and reputation. These rates are reasonable.

9. The staff time and hourly rate assessed in the invoice are likewise reasonable and comparable.

10. In the past five years, I have been lead counsel on numerous wage and hour cases filed in United States District Courts throughout the nation, including the following: *Craig Lyons, et al. v. Con Agra*, 4:12-cv-245-JM (E.D. Ark.) (over 790 plaintiffs); *Keyli Cruthis, et al. v. Visions, et al.*, 4:12-cv-244-KGB (E.D. Ark.); *James Finley v. Universal Pressure Pumping, Inc.*, SA:12-ca-0654-OG (Western District of Texas); *Michael Alexander v. Hahn Appliance Center, Inc.*, 12-CV-257-CVE-TWL (N.D. Okla.); *Chad Lochridge, et al. v. Lindsey Management, et al.*, 5:12-CV-5047-JLH (W.D. Ark.); *Bill Hollomon, et al. v. AT&T Mobility Services, LLC*, 4:11-cv-600-BRW (E.D. Ark.); *Jeffrey Bacon, et al. v. Eaton Aeroquip, LLC*, 2:11-cv-14103-GD (E.D. Mich.); *Karen "Kay" Roland v. Sharp County Post 336, et al.*, 1:11-CV-85-DPM (E.D. Ark.); *Crystal Hilborn, et al. v. Visions, et al.*, 4:11-CV-0124 (BSM) (E.D. Ark.); *Crystal Hilborn, et al. v. Prime Time Club, Inc.*, 4:11-cv-197 (BSM) (Eastern District of Arkansas); *Lacey Taylor, et al. v. Mary Rose Cullen, et al.*, 4:11-cv-269 (DPM) (E.D. Ark.); *Bennie Watson, et al. v. Surf-Frac Wellhead Equipment Company, Inc.*, 4:11-CV-843 (JLH) (E.D. Ark.); *Robert Terry, et al. v. City of Ola*, 4:11-cv-11-645 (JLH) (E.D. Ark.); *Donald*

Bateman, et al. v. Frac Tech Services, LLC, 6:11-cv-708 (E.D. Tex.); *Kalie Brown, et al. v. Barney's Barn, Inc., d/b/a/ Peaches Gentlemen's Club*, 4:11-cv-224 (SWW) (E.D. Ark.); *Jason Phillips v. Oil Patch Water and Sewer Services, LLC, et al.*, 4:11-cv-776 (JLH) (E.D. Ark.); *David Delock, et al. v. Securitas Security Services USA, et al.*, 4:11-CV-520 (DPM) (E.D. Ark.); *Karen Springs, et al. v. First Student, Inc.*, 4:11-CV-00240 (BSM) (E.D. Ark.); *Teramura v. Walgreen Co.*, 5:12-cv-5244-JLH (W.D. Ark.), and many others.

11. More recently, I have been lead counsel on numerous wage and hour cases that resulted in settlements or judgments in favor of my clients including the following: *Coby Pearce v. Frac Tech Services, LLC*, No. 4:12-cv-651-JLH (E.D. Ark.); *Nicole Collins v. Barney's Barn, Inc., et al.*, No. 4:12-cv-685-SWW (E.D. Ark.); *Joseph Gauthier, et al. v. Trican Well Service, L.P.*, No. 6:13-cv-46-LED (E.D. Tex.); *Jason Roche, et al. v. S-3 Pump Service, Inc.*, No. 5:15-cv-268-XR (W.D. Tex.); *Kristen Whitworth, et al. v. French Quarter Partners, LLC*, No. 6:13-cv-6003-RTD (W.D. Ark.); *Robert Terry v. Yell County Ark.*, No. 4:13-cv-408-SWW (E.D. Ark.); *Jessica Guinn v. D J Trucking*, No. 4:13-cv-559-KGB (E.D. Ark.); *Maria Romero de Lopez, et al. v. Ozark Mountain Poultry, Inc.*, No. 5:13-cv-5272-TLB (W.D. Ark.); *Sean Jordan v. Big E. Foods, Inc.*, No. 4:14-cv-205-BRW (E.D. Ark.); *Patricia Hernandez, et al. v. Simmons Foods, Inc.*, No. 5:14-cv-5159-JLH (W.D. Ark.); *Sean Schneider v. Habitat for Humanity International, Inc.*, No. 5:14-cv-5230-TLB (W.D. Ark.); *Pedro Espinoza v. Car-Son Construction, LLC*, No. 4:14-cv-467-KGB (E.D. Ark.); *Sheila Lyles v. City of Trumann, Ark.*, No. 3:14-cv-210-DPM (E.D. Ark.); and *Kellie McCartney v. Baily and Thompson Tax and Accounting, P.A.*, No. 4:14-cv-561-SWW (E.D. Ark.).

12. I am also the lead counsel on several ongoing wage and hour cases in which collective actions have been granted including *Sam Adams v. United Cerebral Palsy of Central Ark., Inc.*, No. 4:16-cv-930-JLH (E.D. Ark.); *James Harris, et al. v. Express Courier International, Inc.*, No. 5:16-cv-5033-TLB (W.D. Ark.); and *Dustin Moore, et al. v. Performance Pressure Pumping Services, LLC*, No. 5:15-cv-432-XR (W.D. Tex.), among many others.

13. Since January of 2015, Sanford Law Firm has filed and prosecuted over 200 distinct wage lawsuits throughout Arkansas and Texas. Many of these lawsuits are (or were, if they have been resolved) group or collective actions, as well as several class actions under Rule 23.

14. Following my graduation from law school, I founded my own practice—the Sanford Law Firm, PLLC—in Russellville, Arkansas in 2001. I opened an office in Little Rock, Arkansas, in 2009 and now predominantly practice in the greater Central Arkansas region, together with a very busy Western District of Texas. Collectively, cases filed by the Sanford Law Firm since 2009 have resulted in more than \$11,000,000.00 in settlement and judgment money for wage and hour violations for more than four hundred (400) clients across the nation.

B. Attorney Rebecca Matlock

15. Rebecca Matlock is a 2015 *magna cum laude* graduate of the University of Arkansas at Little Rock, William H. Bowen School of Law. She is licensed to practice law in all courts in the State of Arkansas, as well as in the United States District Courts for the Eastern and Western Districts of Arkansas.

16. While attending law school, Ms. Matlock served as Executive Editor for the UALR Law Review, and in the spring of 2015 the Law Review published her student work on Fifth Amendment Takings law.

17. During her time at the Sanford Law Firm, Ms. Matlock has participated primarily in cases involving wage and hour disputes.

C. Attorney Steve Rauls

18. Steve Rauls is a 2011 high honors graduate of the University of Arkansas at Little Rock, William H. Bowen School of Law. He is licensed to practice law in all courts in the State of Arkansas and in the Court of Appeals for the Eighth Circuit.

19. While attending law school in the fall of 2010, Mr. Rauls was accepted into the UALR School of Law Public Service Clinical Program, where he served as a judicial extern for Arkansas Supreme Court Justice Robert L. Brown.

20. Also while attending law school, Mr. Rauls served as an Associate Editor for the UALR Law Review, and in the Fall of 2011 the Law Review published his student work on Arkansas guardianship law. Mr. Rauls was a member of the Bowen School of Law's Moot Court Board and represented the school at the Wechsler First Amendment Moot Court Competition at the American University Washington School of Law.

21. Since 2011, Mr. Rauls has participated in more than forty lawsuits brought under the FLSA, ranging from single-plaintiff actions to collective actions with more than five hundred participants.

22. Mr. Rauls' practice is focused on wage and hour litigation. Mr. Rauls is an experienced trial attorney, and has presented CLE programs on applying the Federal Rules of Evidence and effective trial presentation.

D. Attorney Vanessa Kinney

23. Vanessa Kinney is a 2007 high honors graduate of the University of Arkansas at Little Rock, William H. Bowen School of Law, graduating eighth in her class. She is licensed to practice law in all courts in the States of Arkansas.

24. While attending law school, Ms. Kinney was a member of the University of Arkansas at Little Rock Law Review, and in the Winter of 2006 the Law Review published her article, *The Path Leads to Nowhere: The Supreme Court Re-Examines the Trek Through the Political Thicket: Vieth v. Jubelirer*, 541 U.S. 267 (2004), 28 UALR Law Rev. 251.

25. Also while attending law school, Ms. Kinney was the recipient of the Shackleford Scholarship and the Harper and Mayor Bower Harb Scholarship.

26. Ms. Kinney's practice is largely focused on wage and hour litigation.

E. Other Attorneys and Staff

27. Other attorneys and staff combined to work on this case for less than fourteen hours, or less than five percent of the total work performed. Their rates are reasonable in relation to the other attorneys' rates and in relation to their job duties.

TIME EXPENDED IN THIS CASE

28. The Sanford Law Firm pursued this case with organized efficiency. The Firm worked to avoid discovery disputes wherever possible, including having several telephonic meetings and email threads with Defendants' counsel to attempt to resolve issues without the involvement of the Court.

29. The litigation in this case was contentious, thorough, and fair, including vigorous motions practice and the filing of a second lawsuit (*Mary Ann Bennett, et al. v.*

Harte-Hanks Response Management/Austin, Inc., No. 5:16-cv-99-RWS (E.D. Tex.)) after Defendant objected to additional Plaintiffs joining this matter.

30. Plaintiffs' counsel has a written contract with each of the Named Plaintiffs (and with each Plaintiff in the *Bennett* matter) that allows for an attorneys' fee of forty percent of the gross settlement or judgment, plus costs of the litigation.

31. The request for the award of an attorney's fee and costs made here by Plaintiffs is based upon contemporaneous time and expense records maintained by my law firm as a matter of ordinary and customary business practice. The time and billing records identify the amount of time expended, the tasks performed, the rate of the particular timekeeper involved, and the costs incurred. A true and accurate copy of the billing statements showing relevant legal services rendered and time expended on Plaintiff's case is attached to this Declaration.

32. The total of attorney's fees expended in the *Shetzer* and *Bennett* matters as of July 11, 2017, are \$121,318.00.

33. The total costs expended are \$6,290.69.

THE REASONABLENESS OF THE TIME EXPENDED

34. As the attorney in charge of this case, I am familiar with the work that has been performed and the time that has been expended in this case.

35. Prior to filing the fee request, Plaintiff's counsel reviewed and edited the invoice for charges that might have been considered excessive, redundant, or otherwise unnecessary.

36. I believe the time expended, as represented in the invoices filed with this declaration, is reasonable in the light of the circumstances of seeking this judgment.

37. In this case, the Sanford Law Firm agreed to representation on a pure contingency fee basis; thus, the Sanford Law Firm's only opportunity for recovery of attorney's fees incurred on Plaintiff's behalf was either through an express agreement with opposing counsel or a judgment in favor of Plaintiff and an award of attorney's fees from the Court. I believed the case was meritorious, but Plaintiffs—as is true with virtually all wage claim plaintiffs—were simply not in a position where they could pay hourly fees indefinitely for the pursuit of their claims, however meritorious they might be.

**PURSUANT TO 28 U.S.C. § 1746, I VERIFY UNDER PENALTY OF PERJURY
UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE
FOREGOING IS TRUE AND CORRECT.**

Executed on this 12th day of July, 2017.

/s/ Josh Sanford
JOSH SANFORD